

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

March 23, 2009

TO: Internal File

THRU: Steve Christensen, Lead *S/K C* *lw 3/23/09*

FROM: Ingrid Wieser, Environmental Scientist II

RE: Chapter 3 Revisions, Canyon Fuel Company, Dugout Canyon Mine, C/007/0039 and Task ID #3251 (Previous ID # 3218)

SUMMARY:

On February 10, 2009, Canyon Fuel Company LLC submitted an amendment to the Division requesting to update the raptor survey information in the Dugout Canyon Mining and Reclamation Plan. These changes were initiated in response to the letter from the Division of Wildlife Resources (DWR), which stated that DWR would no longer be participating in raptor surveys and private consultants should be hired for surveys beginning in 2009.

On March 2, 2009, the Division compiled a list of deficiencies and sent a letter denying the amendment application to Canyon Fuel Company.

Canyon Fuel Company responded to the deficiency list on March 16, 2009. This memo addresses the response to the deficiencies.

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TECHNICAL ANALYSIS:

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Bald and Golden Eagles

The following are the deficiencies from the original task 3218, the Permittee's response, and a discussion of the adequacy of the response.

***R645-301-322, -333, -342, -358:** Regarding the change on page 3-20 of the M&RP, second full paragraph, surveys should be conducted on all areas containing suitable raptor habitat that could be affected by subsidence or surface disturbances. Surveys need to include **all** nests previously identified by the DWR **regardless** of "inactive" or "not surveyed" status **if** the nest(s) are within an active subsidence zone or adjacent to active surface disturbance (at least ½ mile). The surveys must be conducted in the spring in order to record activity, and **prior** to potential subsidence in order for the Permittee to consult with the Division to determine a protection plan if a nest could be subsided. Please include this information in the raptor survey description.*

The Permittee responded by adding the change to the following:

A Spring survey of raptor nests will be conducted in areas where raptor habitat could be affected by subsidence or surface disturbance associated with the mining activities of the Dugout Canyon Mine. The survey area will be in a one-half mile radius of the potential subsidence or activity. In addition, raptor nest locations will be monitored/surveyed the year following the first monitoring/survey if nests were observed during the survey and if operations result in subsidence. Raptor survey information will be placed in the confidential folders of the M&RP.

The Permittee fulfilled the deficiency and this paragraph is acceptable for amendment approval.

***R645-301-322, -333, -342, -358:** Regarding the Change on Page 3-4 of the Refuse Pile Amendment, in the event that new construction is necessary and will occur during the raptor exclusionary period, a survey must be conducted prior to construction in order for the Division to assist in creating a protection or mitigation plan if an active nest is found.*

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In a telephone conversation with Vicky Miller on March 9, 2009, it was agreed that if any new construction commences in the future, the Division would be notified with an amendment. During that time, the Division can require the Permittee to conduct aerial raptor surveys if the construction will begin during an exclusionary period or if the Division deems it necessary. Therefore, there it is not necessary to include this in the refuse pile amendment and annual raptor surveys are not needed in this area (see tech memo for task 3218).

This deficiency did not need to be addressed in the M&RP and was satisfied during a telephone discussion with Vicky Miller on March 9, 2009.

***R645-301-322, -333, -342, -358:** Regarding the change on page 3-6 of the Degasification Well Amendment, the surveys need to include the areas adjacent to the well pads (at least ½ mile) because of the visual and audible disturbance associated with the wells. The survey must include nests that the DWR previously listed as "inactive" or "not surveyed" if the nests are within ½ mile of the operating wells.*

The Permittee responded by changing the following paragraph:

Raptors- A Spring survey of raptor nests will be conducted in the immediate area (1/2 mile radius) of the well pads each year that the wells are in operation. Raptor survey information will be placed in the confidential folders of the M&RP.

The Permittee adequately addressed the deficiency.

Findings:

The information provided in the amendment is adequate to meet the minimum regulatory requirements.

RECOMMENDATIONS:

This amendment can be approved and incorporated in the Dugout Canyon Mining and Reclamation Plan.